

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

EDWARD J. GARCIA, et al.,	:	
Plaintiff,	:	Civil Action No. 08-1855 (JLL)
v.	:	
OSCAR AVILEZ, et al.,	:	<u>O R D E R</u>
Defendants.	:	

Plaintiffs seeks to file his complaint in forma pauperis without prepayment of fees pursuant to 28 U.S.C. § 1915. Plaintiff Garcia duly applied for the in forma pauperis status. For the reasons set forth in the Court's opinion dated April 30, 2008,

IT IS on this 30th day of April, 2008,

ORDERED that Plaintiff Garcia's application to proceed in forma pauperis is hereby GRANTED; and it is further

ORDERED that certification of Plaintiffs' putative class is DENIED without prejudice; and it is further

ORDERED that the Clerk of the Court shall file the complaint without prepayment of the filing fee; and it is further

ORDERED that Plaintiff Garcia's claims based on failure to release inmates after expiration of their prison terms, failure to enter detainees into the Facility's records, denial of role-model-like social workers, illegal profiteering by the Facility

officials, and failure to serve meals suiting Plaintiff Garcia's palate are DISMISSED;¹ and it is further

ORDERED that Plaintiff Garcia's claims based on denial of access to courts, conditions of confinement and denial of medical care are DISMISSED without prejudice; and it is further

ORDERED that Plaintiff Garcia may file an amended complaint, if he so desires, within thirty (30) days from the date of entry of this Order, curing the deficiencies of his instant pleading of his claims based on denial of access to courts, conditions of confinement and denial of medical care; and it is further

ORDERED that, in the event Plaintiff Garcia elects to file such amended pleading, he shall state the facts upon which he bases these claims, naming appropriate defendants and explaining the factual basis for Plaintiff Garcia's belief that these defendants are liable for the aforesaid violations; and it is further

ORDERED that, pursuant to 28 U.S.C. § 1915(e)(1) and § 4(a) of Appendix H of the Local Civil Rules, the Clerk of the Court shall notify Plaintiff of the opportunity to apply in writing to the assigned judge for the appointment of pro bono counsel in accordance with the factors set forth in Tabron v. Grace, 6 F.3d 454 (3d Cir. 1997), which sets forth the requirements for

¹ This Court's finding does not affect Plaintiff Garcia's right to seek (1) habeas relief in the event he is detained in his correctional facility past the expiration of his term of imprisonment or (2) monetary remedies for such undue detention.

eligibility for appointment of pro bono counsel (in this regard, Plaintiff Garcia is expressly advised that such appointment is neither guaranteed nor automatic); and it is further

ORDERED that the Clerk of the Court shall enclose with such notice a copy of Appendix H and a form Application for Appointment of Pro Bono Counsel; and it is further

ORDERED that, if at any time Plaintiff Garcia seeks the appointment of pro bono counsel, pursuant to Fed. R. Civ. P. 5(a) and (d), Plaintiff shall: (1) serve a copy of the Application for Appointment of Pro Bono Counsel by regular mail upon each party at his last known address or, if the party is represented in this action by an attorney, upon the party's attorney at the attorney's address, and (2) file a Certificate of Service with the Application for Pro Bono Counsel; and it is further

ORDERED that, pursuant to 28 U.S.C. § 1915(b), the Clerk of the Court shall forward copies of this order by regular U.S. mail to the Attorney General of the State of New Jersey and the warden of the place of Plaintiff Garcia's current confinement; and it is further

ORDERED that Plaintiff Garcia is assessed a filing fee of \$350.00, which shall be deducted from his prison account pursuant to 28 U.S.C. § 1915(b)(2) in the manner set forth below; and it is further

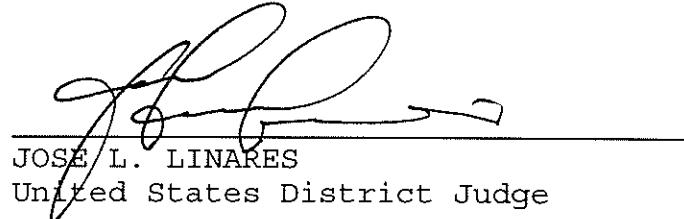
ORDERED that, pursuant to 28 U.S.C. § 1915(b)(1)(A), Plaintiff Garcia is assessed an initial partial filing fee and, when funds exist, the agency having custody of Plaintiff Garcia shall deduct said initial fee from Plaintiff Garcia's prison account and forward it to the Clerk of the Court; and it is further

ORDERED that, pursuant to 28 U.S.C. § 1915(b)(2), until the \$350.00 filing fee is paid, each subsequent month that the amount in Plaintiff Garcia's prison account exceeds \$10.00, the agency having custody of the plaintiff shall assess, deduct from Plaintiff's account, and forward to the Clerk of the Court payments equal to 20% of the preceding month's income credited to Plaintiff Garcia's prison account, with each payment referencing the docket number of this action; and it is further

ORDERED that the Clerk shall serve copies of this Order and Opinion filed herewith upon Plaintiff Garcia by regular U.S. mail, and administratively terminate this matter subject to reopening in the event Plaintiff Garcia timely files his amended pleading; and it is finally

ORDERED that the Clerk shall send by regular U.S. mail individual packages addressed to signatories of Plaintiff Garcia's instant complaint, and that each such package shall include a copy of this Order, a blank civil rights complaint form and an application to proceed in forma pauperis in a § 1983 action, and these packages shall be addressed to the following inmates located

at Hudson County Correctional Center, 35 Hackensack Avenue, S. Kearny, New Jersey 07032: Yasin Baines #205269, Douglas Kelly #196887, Hakeem Lester #205368, Vicente Chavez Arroyo #202205, Corneii Butler #193657, Martin Gomez #195497, Kevin Lewis #200127, Byron Morrell #202186, Clem Clemons #205442, Tireke Chisiom #201174, Ramon Rodriguez #205606, Javier Garcia #204831, Wilson Periata #202518, Marvin Santiago #200046, Harold Rivera #203827, Ronald Burton #202037, Yunior DeLeon #204468, Nor Mohammad #200461, Joseph Denizad #205437, Fa Di Awa Dallam #200458, Manuel Rubio #201135, Bernard Brown #200168, Michael Thompson #199954, Dorian Pressley #197681, Inmate #204000, Inmate #201656, Inmate #203989, Inmate #201749, Inmate #202186, Inmate #200503, Inmate #234902, Inmate #201458, Inmate #200502, Inmate #200296, Inmate #203652, Inmate #202089, Inmate #201351, Inmate #205268, Inmate #202995 and Inmate #204255.



JOSE L. LINARES
United States District Judge